

May 6, 2002

The Honorable Richard A. Merserve  
Chairman  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Dear Chairman Meserve:

SUBJECT: PROPOSED AMENDMENT TO 10 CFR PART 63, "SPECIFICATION OF A PROBABILITY FOR UNLIKELY FEATURES, EVENTS, AND PROCESSES"

The NRC staff briefed the Advisory Committee on Nuclear Waste (ACNW) on a proposed rule to amend 10 CFR Part 63 on January 8, 2002, and on April 16, 2002. The purpose of the amendment is to specify a probability range for unlikely features, events, and processes (FEPs). The probability range proposed for unlikely FEPs is less than a 10% chance but greater than or equal to a 0.01 percent chance of occurring within the 10,000 year compliance period for the proposed Yucca Mountain repository. If adopted, the Commission's regulations will be modified to omit consideration of unlikely events for the ground water protection and human intrusion standards for the proposed Yucca Mountain Repository. Unlikely events will be considered in the all-pathway dose standard. Very unlikely events are not considered in any of the standards.

The ACNW supports the staff's proposed definition of unlikely events. The Committee believes that the staff's proposed approach is based on a reasonable rationale.

The Committee offers the following cautions on the use of screening criteria in risk assessments. First, care must be used to ensure individual scenarios are not subdivided arbitrarily and then screened out. Second, event sequences eliminated from consideration by screening criteria should be examined to ensure their cumulative effect is not risk significant.

Sincerely,

**/RA/**

George M. Hornberger  
Chairman

References:

1. Memo dated November 16, 2001, from William D. Travers, Executive Director for Operations, NRC, for the Commissioners, SECY-01-0206, Subject: Proposed Rule: 10 CFR Part 63: Specification of a Probability for Unlikely Features, Events, and Processes.
2. Letter dated April 10, 2002, from Frank Marcinowski, U. S. Environmental Protection Agency (EPA), to Annette L. Vietti-Cook, Secretary of the U. S. Nuclear Regulatory Commission, transmitting EPA comments on proposed rule entitled "Specification of a Probability for Unlikely Features, Events and Processes."
3. Letter dated April 10, 2002, from Charles J. Fitzpatrick, Egan & Associates, PLLC, Counselors at Law, to Annette Vietti-Cook, Secretary of the U. S. Nuclear Regulatory Commission, transmitting on behalf of the State of Nevada and the Nevada Agency for Nuclear Projects on Proposed Rule, 10 CFR Part 63, "Specification of a Probability for Unlikely Features, Events, and Processes."
4. Letter dated April 10, 2002, from Steven P. Kraft, Nuclear Energy Institute (NEI), to Secretary of the U. S. Nuclear Regulatory Commission, transmitting comments to the NRC on proposed rulemaking to amend 10 CFR Part 63, "Specification of a Probability for Unlikely Features, Events, and Processes."
5. Letter dated April 10, 2002, from Margaret S. Y. Chu, Department of Energy (DOE) to Annette L. Vietti-Cook, Secretary of the U.S. Nuclear Regulatory Commission, transmitting DOE's comments on proposed amendment to 10 CFR Part 63.342, "Probability of Unlikely Features, Events, and Processes."